

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

JUL 07 1995

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In the Matter of)	PP Docket No. 93-253
)	
)	
Implementation of Section 309 (j))	
of the Communications Act -)	DOCKET FILE COPY ORIGINAL
Competitive Bidding)	
)	
Amendment of the Commission's)	
Cellular PCS Cross-Ownership Rule)	GN Docket No. 90-314
)	
Implementation of Sections 3(n) and 332)	
of the Communications Act)	
Regulatory Treatment of Mobile Services)	GN Docket No. 93-252
)	

**COMMENTS OF INTOUCH PCS, INC. TO FURTHER NOTICE OF PROPOSED
RULE MAKING**

Pursuant to the Commission's rules, InTouch PCS, Inc. ("InTouch"), respectfully submits its comments to the Further Notice of Proposed Rule Making adopted by the Commission on June 23, 1995.

InTouch is a Missouri corporation qualified to do business in Illinois and has its principal place of business located in Chicago, Illinois. InTouch was organized in August 1994 for the purposes of bidding on and acquiring broadband personal communications services licenses on frequency blocks C or F at the auctions to be conducted by the Commission and to operate a broadband personal communications

services business. InTouch is a small business owned and controlled by minorities as defined by the Commission's rules as set forth in the Fifth Report and Order, 9 FCC Rcd 5532 (1994) and Fifth Memorandum Opinion and Order, 10 FCC Rcd 403 (1994) in PP Docket No. 93-253.¹

In the Further Notice of Proposed Rule Making, the Commission proposes to eliminate all race- and gender-based provisions contained in the competitive bidding rules applicable to the licenses in the C block auction in order to address legal uncertainties raised by the Supreme Court's recent decision in *Adarand Constructors, Inc. v. Peña*, 63 U.S.L.W. 4523 (U.S. June 12, 1995). The elimination of race- and gender-based provisions will negatively impact the business of InTouch in the following respects:

- Changes in competitive bidding rules would create uncertainties and diminish the level of confidence of InTouch's investors in the U.S. Regulatory System. InTouch's investors may decide to retract their investment in InTouch. This would cause InTouch economic hardship and could possibly eliminate the chance for InTouch to participate into the auction.
- InTouch was formed as a small business owned and operated by minorities for the purposes of bidding on and acquiring broadband PCS licenses and operating a personal communications services business. The changes in the rules to eliminate the provisions competitive bidding for minority- or women-owned small businesses would drastically alter the premise that InTouch's business was built upon originally and would increase level of the

¹ 47 C.F.R. Sections 24.701 through 24.720

competitions in the auction for InTouch. Up to date, InTouch has invested a large amount of financial and human resources to prepare for the auction. Changes in the rules would increase economic difficulty and would also reduce the level of success for InTouch.

Furthermore, in our opinion the changes in the competitive bidding rules in general would adversely affect companies owned and controlled by minority and women that plan to participate in the auction. According to the report by the National Telecommunications and Information Administration of the U.S. Department of Commerce issued April 1994 that "...there are real barriers to minority participation in telecommunications, and that minorities often lack access to the types of and amounts of capital required to form and expand telecommunications businesses." The elimination of race- and gender-based provisions would increase the difficulty for women- and minority-owned companies to raise capital. Thus, this would raise the barrier for women and minority to enter the telecommunications industry.

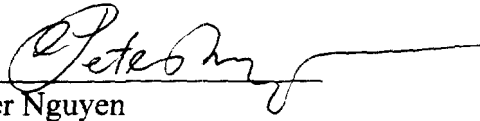
InTouch **does not** support the following proposed amendments:

- Amendment to Section 24.711 of the Commission's Rule to provide for three installment payment plans for entrepreneurs' block applicants that are based solely on financial size. In particular, the small business installment payment plan would reflect the terms previously available to minority- or women-owned small businesses.
- Amendment to Section 24.712 of the Commission's Rule to provide for a 25 percent bidding credit for small businesses only.

InTouch believes that the omission of the above amendments would, in essence, preserve the goals Congress has set out to assist women and minority to enter the telecommunications industry.

Respectfully Submitted,

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